

RECEIVED

RE: LESANE VS. STATE OF SOUTH CAROLINA

JUL 20 2015

APPEAL / EXPLANATION

S.C. SUPREME COURT

The decision of the Circuit Court was improper because it was based on unfounded facts.

The conditional order stated that the Supreme Court affirmed my conviction and the denial of my PCR application. The state failed to produce the affirmance of the denial of my PCR application. Yet the Circuit Court denied my application because of it. That was an improper ruling.

According to the SCACR, the question of whether petitioner was denied or the right to a direct appeal was not knowingly and intelligently waived or was knowingly and intelligently waived, the question should be raised in the petition along with all other post-conviction relief issues. This was not done. By this not being done, it denied me my right to appeal the denial of my PCR application.

So there is still no ruling by the Supreme or Appellate Courts regarding the lower courts denial of my first PCR application in its entirety

BECAUSE COUNSEL ATTY. ROBERT PACHAK REFUSED TO BRIEF ARGUABLE ISSUES REGARDING MY PCR APPLICATION.

MR. PACHAK ONLY ARGUED THE DIRECT APPEAL ISSUE. I ASKED MR. PACHAK TO ARGUE THE OTHER PCR ISSUES BUT HE REFUSED. (SEE ATTACHED EXHIBIT) NOR DID HE FILE A JOHNSON PETITION WHERE I COULD ARGUE THE ISSUES MYSELF. SO I HAD NO WAY OF GETTING AN ADJUDICATION ON THE OTHER PCR ISSUES THAT PETITIONER FEELS LED TO HIS CONVICTION.

LAW

ONCE A PCR APPLICANT OBTAINS A COMPLETE ADJUDICATION ON THE MERITS OF HIS ORIGINAL APPLICATION, INCLUDING AN APPEAL, HE MAY NOT MAKE SUCCESSIVE APPLICATIONS BASED ON INEFFECTIVE ASSISTANCE OF PRIOR PCR COUNSEL. SEE ALSO GARNER V. STATE, 371 S.C. 1, 3, 636 S.E. 2d 860, 861 (2006).

SUCCESSIVE PCR APPLICANTS MAY NOT BE USED ~~to~~ TO CHALLENGE AN ATTORNEY'S PERFORMANCE IN A PRIOR PCR CASE EXCEPT IN ONE CIRCUMSTANCE: WHERE THE APPLICANT WAS UNCONSTITUTIONALLY DENIED HIS STATUTORY RIGHT TO APPEAL THE DENIAL OF A PRIOR PCR APPLICATION SEE AUSTIN V. STATE, 305 S.C. 453, 409 S.E. 2d 395 (1991).

CONCLUSION

THERE IS NO DECISION FROM THE APPELLATE COURTS AFFIRMING THE DENIAL OF MY FIRST PCR APPLICATION. SO, ACTUALLY THIS IS NOT A SUCCESSIVE APPLICATION BECAUSE IT STILL RELATES TO THE INITIAL APPLICATION I FILED. THE DETERMINATION OF THE LOWER COURT WAS IMPROPER. FOR IT TO STAND, WOULD MEAN THAT THE SCACR IS UNCONSTITUTIONAL REGARDING PCR MATTERS OF THIS KIND BECAUSE IT TIES THE HAND OF THE APPLICANT WHEN THE DECISION NOT ARGUE ISSUES IS LEFT TO THE ATTORNEY'S DISCRETION AND HE HAS NO BLAME BECAUSE HE IS PROTECTED BECAUSE HE DOESN'T HAVE TO BE EFFECTIVE IN COLLATERAL PROCEEDINGS. BUT, THIS WAS A SPECIAL PROCEEDING BECAUSE I DID NOT WAIVE MY RIGHT TO APPEAL.

7/16/15

Respectfully Submitted,
~~Michael Lesane~~
MICHAEL LESANE

PROOF OF SERVICE

UNDER THE PENALTY OF PERJURY I,
MICHAEL LESANE, did file this LETTER to the SUPREME
COURT by way of the WATEREE CORR. INSTITUTIONAL MAILROOM
SERVICE, hand delivered on the 7 day of July, 2015.

7/16/15

RESPECTFULLY Submitted

Michael Lesane

MICHAEL LESANE



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

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Joseph L. Savitz, III, Chief Attorney
Wanda H. Carter, Deputy Chief Attorney

January 17, 2007

Michael Bernard Lesane, #258515
Lee Correctional Institution
990 Wisacky Hwy.
Bishopville, SC 29010

Re: Your case

Dear Mr. Lesane:

I have argued all the issues that have any merit. If you are not happy with my professional judgment, you should move to have me relieved as counsel along with a motion to proceed pro se. You should also advise the Court that you are doing this with eyes open and that you know the dangers and disadvantages of going pro se.

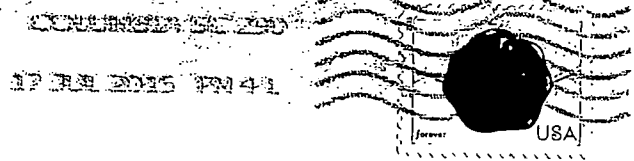
Sincerely,

Robert M. Pachak
Appellate Defender

RMP/fkb

Enclosure

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SUPREME COURT
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LEGAL MAIL

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